

REMARKS

Claims 1-4, 6, 8-11, 13-14, and 18 have been amended, and claims 5 and 12 have been cancelled. Claims 1-4, 6, 8-11, 13-20 are currently pending in the application.

The Examiner's objections and rejections are addressed below.

35 USC §112 Rejection

Claims 5 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Claims 5 and 12 have been cancelled, thereby obviating the Examiner's rejection.

35 USC §101 Rejection

Claims 8-12 are rejected under 35 U.S.C. 101 as lacking patentability utility. Specifically, the Examiner objects to the language of the preamble, and suggests replacing it with the following language: *A Computer-readable medium encoded with computer executable instructions thereon*. The Applicants do not agree with the Examiner's assertion that the original preamble language, which reads "*An article comprising one or more machine-readable storage media containing instructions,*" is not compliant with 35 U.S.C. 101. An "article" (often short for "article of manufacture") is certainly one of the prescribed patentable categories covered by the patent statute. *See* 35 USC 101 ("[w]hoever invents or discovers any new and useful process, machine, *manufacture*, or composition of matter, or any new and useful improvement...") (emphasis added). Although the Applicants believe the original preamble language is consistent with 35 USC 101, in the interest of expediting prosecution, the Applicants have amended the language as suggested by the Examiner.

35 USC §102 Rejection

The Examiner rejected claims 1-5, 7-12, 14-17 and 19-20 under 35 U.S.C. 102(e) as being unpatentable by Abrol (US 7,061,913). The Applicants respectfully traverse this rejection.

Claim 1 calls for receiving a data packet, determining if the data packet is a next expected data packet, determining if packet reordering occurred prior to receiving the data packet. Claim 1 further specifies delaying transmission of an acknowledgement indicating that a data packet is missing in response to determining that the data packet is not the next expected data packet and in response to determining that the packet reordering occurred. As described in the patent application, determining that the packet reordering has occurred allows the receiving device to operate in the “packet reordering” mode. *See* Specification, pp. 26-27. In this mode, the acknowledgement of one or more subsequently received packets that are determined to be missing can be delayed, thereby allowing the missing packet(s) additional time to arrive. *Id.* Further, as explained in the patent application, by reducing the need or the number of acknowledgements that are sent for missing packet(s), one or more embodiments of the present invention can improve network performance because fewer acknowledgements, if any, need to be sent and also because the congesting window of sender need not be reduced. *Id.*

The Examiner asserts that Abrol teaches all of the features of claim 1. Applicants respectfully disagree. Abrol describes buffering unsequentially received frames and withholding the transmission of a NAK (negative acknowledgement) for a delayed frame until that frame has been missing longer than a predefined amount of time. *See* Abrol, 5:60-67. Notably, in Abrol, the delay is introduced if it is determined that a frame is missing (in other words, the received frame is not the next expected frame). In contrast, claim 1 calls for delaying transmission of an acknowledgement in response to determining that the data packet is not the next expected data packet and in response to

determining that the packet reordering occurred prior to receiving the data packet. This difference between the claim and Abrol is relevant because, in Abrol, the transmission of the acknowledgement is always delayed if the frame is not received within a predefined time (regardless of whether the missing packet is due to packet reordering or because it was lost), whereas in claim, the delay occurs once packet reordering is detected. By delaying the transmission of the acknowledgement based on packet reordering, the network performance can be improved for one or more of the various reasons described in the specification.

For at least the aforementioned reasons, claim 1 and its dependent claims are allowable. For similar reasons, the remaining claims are also allowable.

Applicants respectfully assert that in light of the above-stated reasons, all claims of the present application are now allowable and, therefore, request that a Notice of Allowance be issued. Reconsideration of the present application is respectfully requested.

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is respectfully requested to call the undersigned attorney at the Houston, Texas telephone number (713) 934-4064 to discuss the steps necessary for placing the application in condition for allowance.

Respectfully submitted,

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